

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15928 of the D.C. Department of Housing and Community Development, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 410.12 to allow a group of 23 single-family dwellings to be erected with division walls from the ground up and to be deemed a single building in an R-4 District at premises 411-455 17th Street, N.E. (Square 4546, per subdivision of Lots 159 and 812).

HEARING DATE: March 23, 1994
DECISION DATE: March 23, 1994 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 3-0 (George Evans, Laura M. Richards and Craig Ellis to grant; Angel F. Clarens and John G. Parsons not present, not voting).

FINAL DATE OF ORDER: April 20, 1994

MODIFICATION ORDER

The Board granted the application by its order dated April 20, 1994. The provisions of 11 DCMR 3331.7 and 3331.1 provide that approval of an application includes approval of the plans included with the application for the construction of or addition to a building or structure unless the Board orders otherwise, and that the applicant shall carry out such construction in accordance with the plans approved by the Board.

By letter dated July 21, 1994, counsel for the applicant requested a modification of the plans previously approved by the Board. The basis for the requested modification of plans is that the applicant has been advised by the District of Columbia Department of Public Works that an active, 22-foot wide sewer line with a 50-foot wide easement, crosses the northeast corner of the site and affects the location of five townhouses shown on the approved plans. In order to assure that the development does not encroach upon the sewer and easement area, the applicant proposes to eliminate one of the affected townhouses and shift the remaining houses on the site. The proposed elimination of one unit and reconfiguration of four units will eliminate concerns about foundation influence on the sewer and easement area. In addition, the proposed reconfiguration results in an increase in the number of on-site parking spaces and provides additional open space/play areas which were not available on the originally approved plans. There was no opposition to the proposed modification of plans.

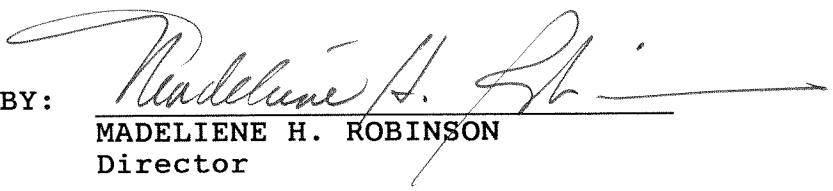
The Board waived Subsection 3335.6 of the Board's Rules which provides that no member shall vote on a request for modification of plans unless the member participated in and voted on the original decision. Those Board members who did not participate in the original decision on this application were provided with copies of the transcript and record of the subject case for review prior to consideration of the motion for modification.

Based on the foregoing, the Board concludes that the proposed modifications to the originally approved plans are minor changes to the site plan necessary to protect the integrity of the sewer and easement area which crosses the site. The proposed modifications have no impact on the relief originally granted by the Board. The remaining 22 units will be constructed as a single building pursuant to 11 DCMR 410.12 and there will be no change to the interior or exterior design of the units. The landscaping treatment will remain the same with the exception of the proposed additional open space. The material facts relied upon by the Board are unaffected by the proposed modification of plans. No additional zoning relief is required. It is therefore **ORDERED** that the proposed modification of plans is **APPROVED** and the plans marked as Exhibit No. 35A of the record shall be substituted for those plans originally approved by the Board and marked as Exhibit No. 10. In all other respects the order of the Board dated April 20, 1994 shall remain in full force and effect.

VOTE: 4-0 (Susan M. Hinton and Laura M. Richards to approve; John G. Parsons and Craig Ellis to approve by absentee vote; Angel F. Clarens abstaining).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER:

SEP 30 1994

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER

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IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15928Mod/SS/bhs

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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 30 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

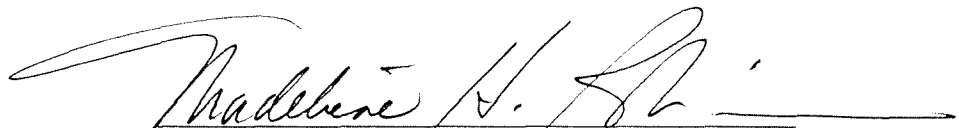
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MADELIENE H. ROBINSON
Director

DATE: SEP 30 1994

15928Att/bhs